

allowable exceedance frequencies of numeric effluent limits are included in many if not most other NPDES permits around the State and country. Combined Sewer Systems throughout the United States have allowable exceedance frequencies based upon hydrology or allowable overflows per year as one example. The California Toxics Rule includes exceedance frequencies for aquatic life-based water quality criteria as another example. Finally, an excellent example from the Los Angeles region with which you are undoubtedly familiar is the Santa Monica Bay Beaches Bacteria wet-weather TMDL, in which allowable “exceedance days” were developed for coastal municipal permittees based on bacteria monitoring data from an undeveloped “reference watershed” (Leo Carrillo beach). Fecal indicator bacteria in surface waters is a great analog for the situation faced by SSFL for dioxins and several metal parameters; i.e., natural background levels of these constituents routinely exceed the water quality standard-based numeric effluent limits of the permit.

5. The Expert Panel has not recommended the removal of dioxin limits; however, it is the Expert Panel’s conclusion that under certain conditions, especially after wildfires, that the runoff from the Site greatly exceeds the permit, and reduction of virtually all the suspended solids, such as might occur with drinking water-level filtration of the runoff, will likely not meet the permit dioxin limit. The panel is reviewing dioxin data from other runoff sites as well as adjacent locations to determine what level of background dioxins exists under normal conditions and after fires. The panel is hopeful that specific congener results might reveal sources of dioxins. Dioxins from diffuse sources are the subject of research world-wide and source identification is a common goal. The Expert Panel will develop a white paper to expound on this topic for future submittal to Board staff for their review. The Expert Panel has recommended a strategy of ENTS implementation that is specifically designed to reduce dioxin concentrations at the Site, regardless of natural background levels of dioxin in stormwater runoff,
6. Some commenters have questioned the ENTS locations by saying that they have been sited on top of contaminated soils or other media. The Expert Panel has accounted for the dual constraints of contaminated groundwater and soil since it began its work, but by the same token, we have also not allowed these constraints to drive the selection of ENTS locations or to eliminate ENTS from consideration, particularly in strategic locations such as the LOX site. A detailed soil management plan is being developed by Boeing and its consultants to identify impacted soils for *immediate* removal or treatment, to allow for ENTS construction to meet the CDO compliance schedule, as opposed to a longer schedule that was planned previously as part of the larger site cleanup plan. The 3 ate

or beneath the proposed ENTS locations, ENTS construction will significantly accelerate the removal and/or treatment of these soils.

7. Some commenters stated that compliance monitoring should be based on total pollutant concentrations and not filtered concentrations. The Expert Panel understands that permit limits are based on total concentrations and the ENTS have been designed on the basis of these limits. The complaints during the hearing about sample filtration are from individuals who are misinformed and obviously have not participated in previous public meetings. Additional sampling – unrelated to compliance monitoring and including both filtered and total concentrations – has occurred and will likely continue for the purpose of developing effective ENTS designs.
8. The statements at the hearing regarding grab vs. composite samples are not consistent with best scientific practice and the Expert Panel’s experience. Composite samples taken during the complete duration of a runoff event better represent the true concentrations and mass of pollutants that leave a site. Also, in our original recommendation to consider composite samples, we noted the suitability of composite samples for only a subset of the contaminants, and contaminants such as volatile organic compounds, toxicity, and oil and grease must continue to be analyzed using grab samples. The Expert Panel will develop a white paper to expound on this topic for future submittal to Board staff for their review.
9. There was some confusion over the term “source control”. Clean up of contaminated sites is already underway and under regulation by DTSC. The panel has noted that we have asked Boeing to do the same

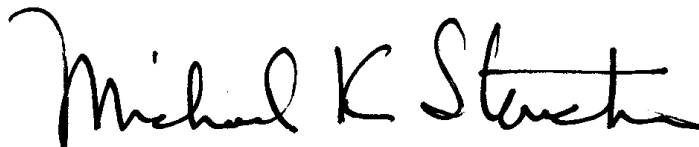
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statements that were made by some hearing attendees, the Panel membership was not picked by Boeing. We Panel members asked about the selection process in our very first meeting. Geosyntec Consultants, which works nationally in stormwater management and has staff that have participated themselves on statewide and regional panels, developed the initial list of Expert Panel candidate members (19). Regional Board staff reviewed the list and one of the selected candidates (Pitt) was added based on Board staff request. Boeing neither suggested nor vetoed any candidates.

We have welcomed and continue to welcome public input. The Expert Panel has gone to a great level of effort to make preliminary recommendations available for public review via public presentations, site tours, progress reports at Regional Board hearings, and posting of our public meeting presentations and white paper to the Boeing website. We hope this letter will eliminate some of the confusion that we observed at the hearing. We understand our role is to provide independent guidance using the best science available and we look forward to all input that can add to that knowledge base. We would appreciate the opportunity to respond to comments, including those from the Board, directly in any future hearings, if your rules will allow.

Finally, most of the members of the Panel are registered professional engineers, and, as such, recognize that our paramount responsibility is “to protect public health, safety and welfare.” Please know that the Expert Panel members and I take this charge seriously.

In order to provide the letter at the earliest possible time, only Dr. Stenstrom, acting as the Panel Chair, is signing it. All Panel members have reviewed the letter and agree with its contents.

A handwritten signature in black ink that reads "Michael K Stenstrom". The signature is written in a cursive, flowing style with a horizontal line underlining the last name.

Michael K. Stenstrom, Ph.D., P.E., BCEE

CC: Cassandra Owens
Senator Sheila James Kuehl
Supervisor Linda Parks
Santa Monica Bay Keeper